

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLIFFORD WRIGHT, III,

Defendant.

8:14CR109

ORDER

This matter is before the Court on the Defendant's Notice of Appeal, ECF No. 60, and the Clerk's Memorandum, ECF No. 61, concerning the Defendant's authorization to proceed with his appeal in forma pauperis. The Clerk has construed the Defendant's Notice of Appeal as seeking to appeal from the Judgment entered in the underlying criminal case on October 6, 2014, ECF No. 30, as well as the Judgment following the Defendant's supervised release revocation, on July 14, 2016, ECF No. 57.

Federal Rule of Appellate Procedure 4(b) provides that "[i]n a criminal case, a defendant's notice of appeal must be filed in the district court within 14 days after the later of: (i) the entry of either the judgment or the order being appealed; or (ii) the filing of the government's notice of appeal." Here, the government filed no notice of appeal regarding either Judgment, and the Defendant's Notice of Appeal is untimely with respect to both Judgments. It is also noted that the Defendant waived his right of appeal with respect to the Judgment in the underlying criminal action, see Plea Agreement at ECF No. 25, Page ID 48-49, and he was notified orally and in writing of the fourteen-day limitation for the filing of an appeal with respect the sentence for his supervised release violation, see Notice of Right to Appeal, ECF No. 56.

Federal Rule of Appellate Procedure 24(a)(3) provides:

A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court—before or after the notice of appeal is filed—certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding; or

(B) a statute provides otherwise.

Although the Defendant was permitted to proceed in forma pauperis in the district-court actions and had court-appointed counsel in all the district-court proceedings, the Court finds that his appeals are not taken in good faith and are barred as untimely.

IT IS ORDERED:

1. The Defendant's Notice of Appeal, ECF No. 60, construed as a motion to proceed on appeal in forma pauperis, is denied;
2. The Court certifies that the appeals are not taken in good faith;
3. The Court finds the Defendant is not otherwise entitled to proceed in forma pauperis because his appeals are barred as untimely; and
4. The Clerk will mail a copy of this Order to the Defendant at his last known address.

Dated this 1st day of August 2019.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge